

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO. 5:23-CV-00167-KDB-SCR**

**DEBRA C. CLOER AND  
BARRY E. CLOER,**

**Plaintiffs,**

**v.**

**U.S. BANK NATIONAL  
ASSOCIATION, et al.,**

**Defendants.**

**ORDER**

THIS MATTER is before the Court on Defendants’ “Motion to Dismiss” (Doc. No. 5) filed April 11, 2024. Pro se Plaintiffs’ responses were due April 25, 2024, and on May 15, 2024 an Order to Show Cause was entered giving Plaintiffs additional time until June 17, 2024 to file their responses. In that Order, Plaintiffs were specifically warned that the failure to make a timely response might result in the dismissal of their claims with prejudice. (Doc. No. 7 at 2). Despite this generous extension of time and clear warning, Plaintiffs have not filed any responses to the motion nor have they otherwise prosecuted this action since its inception.

The District Court has the inherent authority to dismiss a case for failure to prosecute and Rule 41(b) “provides an explicit basis for this sanction.” *Doyle v. Murray*, 938 F.2d 33, 34 (4th Cir. 1991). While the Court must exercise this sanction with restraint, it may dismiss an action after considering four factors: “(1) the plaintiff’s degree of personal responsibility; (2) the amount

of prejudice caused the defendant; (3) the presence of a drawn out history of deliberately proceeding in a dilatory fashion; and (4) the effectiveness of sanctions less drastic than dismissal.” *Hillig v. Comm’r of Internal Revenue*, 916 F.2d 171, 174 (4th Cir. 1990). After considering these factors, and in the absence of any indication that Plaintiffs intend to pursue their claims, the Court will dismiss this action.

**ORDER**

**NOW THEREFORE IT IS ORDERED THAT:**

1. Defendants’ Motion to Dismiss (Doc. No. 5) is **GRANTED**; and
2. The Clerk is directed to close this matter in accordance with this Order.

**SO ORDERED ADJUDGED AND DECREED.**

Signed: June 25, 2024



Kenneth D. Bell  
United States District Judge

